S.B.CIVIL TRANSFER PETITION NO.1/2006

Smt. Sudha Sharma

vs.

Kailash Sharma

DATE OF ORDER ::: 26.5.2006

PRESENT

HON'BLE MR. PRAKASH TATIA, J.

Ms. M Maheshwari, for the petitioner.

Mr. BN Kalla, for the respondent.

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Heard learned counsel for the parties.

The petitioner, wife of respondent, has moved this application for transfer of the Petition No.342/2005 filed by the respondent under Section 13 of the Hindu Marriage Act and which is pending in the Family Court No.1, Jaipur to Family Court, Jodhpur.

According to the petitioner, her marriage was solemnised with respondent on 22.6.2003 at Ajmer. Because of the dispute for which several allegations are there, the respondent submitted application under Section 9 of the Hindu Marriage Act in Family Court, Jaipur. Said petition was withdrawn. Thereafter, the respondent has submitted under Section 13 of the Hindu Marriage Act before the Family Court No.1, Jaipur.

According to the petitioner, she is having a little baby of about 1½ years only and she has to look after her

household work apart from discharging other duties. It is submitted that she is residing at Jodhpur which is more than 300 kms. from Jaipur. The petitioner further submitted that her father is 70 years old and her mother is 65 years old. She is not having any brother or unmarried daughter.

The respondent along with his advocate vehemently submitted that he is presently unemployed whereas the petitioner is in service and getting handsome salary. It is also submitted that his father is suffering from severe ailment as he is to attend him regularly. It is also submitted that it will be impossible for him to bring the witnesses from Jaipur to Jodhpur and the transfer petition has been filed just to harass the respondent and to see that the respondent may not bring the witnesses to Jodhpur. Learned counsel for the respondent relied upon a judgment of this Court delivered in the case of Kusum Saboo vs. Rajendra Saboo reported in 1996 DNJ (Raj.) 714 wherein it has been held that mere inconvenience in attending the Court at Jaipur is not a valid ground when the transfer of case was sought by the petitioner w/o respondent in the said case.

I have considered the submissions of learned counsel for the parties and perused the facts of the case.

The petitioner is a young lady having parents of advance age with a baby of about 1½ years only. She submitted that she has to take care of her home affairs apart from her other duties whereas the respondent is a

male member and respondent admitted that he has two more brothers, however, they are, according to respondent, in service and not living at present at Jaipur.

Looking to the facts of the case, it appears that it will be virtually impossible for the petitioner to contest the case at Jaipur, therefore, it will be appropriate to transfer the petition under Section 13 filed by the respondent.

So far as appearance of respondent is concerned, he can seek permission from Family Court, Jodhpur of taking assistance of advocate for appearance on his behalf. The grievance of the respondent can also be satisfied by directing the Family Court, Jodhpur to decide the petition expeditiously for which both the parties shall cooperate.

In view of the above, this transfer petition is allowed, the Petition no.342/2005 (Kailash Sharma vs. Smt. Sudha Sharma) filed by the respondent pending in the Court of Family Court No.1, Jaipur is hereby withdrawn and is transferred to the Family Court, Jodhpur for deciding the same in accordance with law.

Both the parties are directed to remain present in the Family Court, Jodhpur on 27.6.2006.

(PRAKASH TATIA), J.

S.Phophaliya